



General Assembly

January Session, 2005

***Raised Bill No. 1336***

LCO No. 4692

\*04692\_\_\_\_\_LAB\*

Referred to Committee on Labor and Public Employees

Introduced by:  
(LAB)

***AN ACT CONCERNING REVISIONS TO STATUTES GOVERNING THE  
SECOND INJURY FUND.***

Be it enacted by the Senate and House of Representatives in General  
Assembly convened:

1       Section 1. Section 31-299b of the general statutes is repealed and the  
2       following is substituted in lieu thereof (*Effective July 1, 2006*):

3       If an employee suffers an injury or disease for which compensation  
4       is found by the commissioner to be payable according to the  
5       provisions of this chapter, the employer who last employed the  
6       claimant prior to the filing of the claim, or the employer's insurer, shall  
7       be initially liable for the payment of such compensation. The  
8       commissioner shall, within a reasonable period of time after issuing an  
9       award, on the basis of the record of the hearing, determine whether  
10      prior employers, or their insurers, are liable for a portion of such  
11      compensation and the extent of their liability. If prior employers are  
12      found to be so liable, the commissioner shall order such employers or  
13      their insurers to reimburse the initially liable employer or insurer  
14      according to the proportion of their liability. Reimbursement shall be  
15      made within ten days of the commissioner's order with interest, from  
16      the date of the initial payment, at twelve per cent per annum. If no  
17      appeal from the commissioner's order is taken by any employer or

18 insurer within twenty days, the order shall be final and may be  
19 enforced in the same manner as a judgment of the Superior Court. For  
20 purposes of this section, the Second Injury Fund shall not be deemed  
21 an employer or an insurer and shall be exempt from any liability.

22 Sec. 2. Subdivision (2) of subsection (a) of section 31-306 of the  
23 general statutes is repealed and the following is substituted in lieu  
24 thereof (*Effective July 1, 2006*):

25 (2) To those wholly dependent upon the deceased employee at the  
26 date of the deceased employee's injury, a weekly compensation equal  
27 to seventy-five per cent of the average weekly earnings of the deceased  
28 calculated pursuant to section 31-310, as amended by this act, after  
29 such earnings have been reduced by any deduction for federal or state  
30 taxes, or both, and for the federal Insurance Contributions Act made  
31 from such employee's total wages received during the period of  
32 calculation of the employee's average weekly wage pursuant to said  
33 section 31-310, as amended by this act, as of the date of the injury but  
34 not more than the maximum weekly compensation rate set forth in  
35 section 31-309 for the year in which the injury occurred or less than  
36 twenty dollars weekly. (A) The weekly compensation rate of each  
37 dependent entitled to receive compensation under this section as a  
38 result of death arising from a compensable injury occurring on or after  
39 October 1, 1977, shall be adjusted annually as provided in this  
40 subdivision as of the following October first, and each subsequent  
41 October first, to provide the dependent with a cost-of-living  
42 adjustment in the dependent's weekly compensation rate as  
43 determined as of the date of the injury under section 31-309. If the  
44 maximum weekly compensation rate, as determined under the  
45 provisions of said section 31-309, to be effective as of any October first  
46 following the date of the injury, is greater than the maximum weekly  
47 compensation rate prevailing at the date of the injury, the weekly  
48 compensation rate which the injured employee was entitled to receive  
49 at the date of the injury or October 1, 1990, whichever is later, shall be  
50 increased by the percentage of the increase in the maximum weekly

51 compensation rate required by the provisions of said section 31-309  
52 from the date of the injury or October 1, 1990, whichever is later, to  
53 such October first. The cost-of-living increases provided under this  
54 subdivision shall be paid by the employer without any order or award  
55 from the commissioner. The adjustments shall apply to each payment  
56 made in the next succeeding twelve-month period commencing with  
57 the October first next succeeding the date of the injury. With respect to  
58 any dependent receiving benefits on October 1, 1997, with respect to  
59 any injury occurring on or after July 1, 1993, and before October 1,  
60 1997, such benefit shall be recalculated to October 1, 1997, as if such  
61 benefits had been subject to recalculation annually under this  
62 subparagraph. The difference between the amount of any benefits that  
63 would have been paid to such dependent if such benefits had been  
64 subject to such recalculation and the actual amount of benefits paid  
65 during the period between such injury and such recalculation shall be  
66 paid to the dependent not later than December 1, 1997, in a lump-sum  
67 payment. The employer or its insurer shall be reimbursed by the  
68 Second Injury Fund, as provided in section 31-354, for adjustments,  
69 including lump-sum payments, payable under this subparagraph for  
70 deaths from compensable injuries occurring on or after July 1, 1993,  
71 and before October 1, 1997, upon presentation of any vouchers and  
72 information that the Treasurer shall require. No claim for payment of  
73 retroactive benefits may be made to the Second Injury Fund more than  
74 two years after the date on which the employer or its insurer paid such  
75 benefits in accordance with this subparagraph. (B) The weekly  
76 compensation rate of each dependent entitled to receive compensation  
77 under this section as a result of death arising from a compensable  
78 injury occurring on or before September 30, 1977, shall be adjusted as  
79 of October 1, 1977, and October 1, 1980, and thereafter, as provided in  
80 this subdivision to provide the dependent with partial cost-of-living  
81 adjustments in the dependent's weekly compensation rate. As of  
82 October 1, 1977, the weekly compensation rate paid prior to October 1,  
83 1977, to the dependent shall be increased by twenty-five per cent. The  
84 partial cost-of-living adjustment provided under this subdivision shall

85 be paid by the employer without any order or award from the  
86 commissioner. In addition, on each October first, the weekly  
87 compensation rate of each dependent as of October 1, 1990, shall be  
88 increased by the percentage of the increase in the maximum  
89 compensation rate over the maximum compensation rate of October 1,  
90 1990, as determined under the provisions of section 31-309 existing on  
91 October 1, 1977. The cost of the adjustments shall be paid by the  
92 employer or its insurance carrier who shall be reimbursed for such cost  
93 from the Second Injury Fund as provided in section 31-354 upon  
94 presentation of any vouchers and information that the Treasurer shall  
95 require. No claim for payment of retroactive benefits may be made to  
96 the Second Injury Fund more than two years after the date on which  
97 the employer or its insurance carrier paid such benefits in accordance  
98 with this subparagraph.

99 Sec. 3. Subsection (c) of section 31-306 of the general statutes is  
100 repealed and the following is substituted in lieu thereof (*Effective July*  
101 *1, 2006*):

102 (c) (1) The dependents of any deceased employee who was injured  
103 between January 1, 1952, and December 31, 1973, and who  
104 subsequently dies, shall be paid compensation on account of the death  
105 retroactively to the date of the employee's death. The cost of the  
106 payment or adjustment shall be paid by the employer or its insurance  
107 carrier who shall be reimbursed for such cost from the Second Injury  
108 Fund as provided in section 31-354 upon presentation of any vouchers  
109 and information that the Treasurer shall require. No claim for payment  
110 of retroactive benefits may be made to the Second Injury Fund more  
111 than two years after the date on which the employer or its insurance  
112 carrier paid such benefits in accordance with this subdivision.

113 (2) The dependents of any deceased employee who was injured  
114 before January 1, 1952, and who died on or before October 1, 1991,  
115 shall be paid compensation on account of the death retroactively to the  
116 date of the employee's death. The cost of the payment or adjustment

117 shall be paid by the employer or its insurance carrier who shall be  
118 reimbursed for such cost from the Second Injury Fund as provided in  
119 section 31-354 upon presentation of any vouchers and information that  
120 the Treasurer shall require. No claim for payment of retroactive  
121 benefits may be made to the Second Injury Fund more than two years  
122 after the date on which the employer or its insurance carrier paid such  
123 benefits in accordance with this subdivision.

124 Sec. 4. Subsection (d) of section 31-306 of the general statutes is  
125 repealed and the following is substituted in lieu thereof (*Effective July*  
126 *1, 2006*):

127 (d) The dependents of any deceased employee who was injured in  
128 an accident arising out of and in the course of employment before  
129 January 1, 1952, and who died, as a result of those injuries, after  
130 October 1, 1991, shall be paid compensation, under the provisions of  
131 this section, effective as of the date of death of any such employee.  
132 Notwithstanding the provisions of subsection (a) of this section, the  
133 weekly compensation rate for such dependents shall equal the amount  
134 of compensation the injured employee was receiving prior to death  
135 pursuant to section 31-307. Such weekly compensation rate shall  
136 hereafter be adjusted in accordance with the provisions of subsection  
137 (a) of this section. The cost of such payment or adjustment shall be  
138 paid by the employer or the insurance carrier of such employer who  
139 shall be reimbursed for such cost from the Second Injury Fund  
140 provided for in section 31-354. No claim for payment of retroactive  
141 benefits may be made to the Second Injury Fund more than two years  
142 after the date on which the employer or its insurance carrier paid such  
143 benefits in accordance with this subsection.

144 Sec. 5. Section 31-307a of the general statutes is repealed and the  
145 following is substituted in lieu thereof (*Effective July 1, 2006*):

146 (a) The weekly compensation rate of each employee entitled to  
147 receive compensation under section 31-307 as a result of an injury  
148 sustained on or after October 1, 1969, and before July 1, 1993, which

149 totally disables the employee continuously or intermittently for any  
150 period extending to the following October first or thereafter, shall be  
151 adjusted annually as provided in this subsection as of the following  
152 October first, and each subsequent October first, to provide the injured  
153 employee with a cost-of-living adjustment in his or her weekly  
154 compensation rate as determined as of the date of the injury under  
155 section 31-309. If the maximum weekly compensation rate as  
156 determined under the provisions of section 31-309, to be effective as of  
157 any October first following the date of the injury, is greater than the  
158 maximum weekly compensation rate prevailing as of the date of the  
159 injury, the weekly compensation rate which the injured employee was  
160 entitled to receive at the date of the injury or October 1, 1990,  
161 whichever is later, shall be increased by the percentage of the increase  
162 in the maximum weekly compensation rate required by the provisions  
163 of section 31-309 from the date of the injury or October 1, 1990,  
164 whichever is later, to such October first. The cost-of-living increases  
165 provided under this subsection shall be paid by the employer without  
166 any order or award from the commissioner. The adjustments shall  
167 apply to each payment made in the next succeeding twelve-month  
168 period commencing with the October first next succeeding the date of  
169 the injury.

170 (b) The weekly compensation rate of each employee entitled to  
171 receive compensation under section 31-307 as a result of an injury  
172 sustained prior to October 1, 1969, which has disabled the employee  
173 for a period extending to October 1, 1969, or thereafter shall be  
174 adjusted as of October 1, 1969, and annually thereafter, as provided in  
175 this subsection to provide the injured employee with a partial cost-of-  
176 living adjustment in his or her weekly compensation rate. The weekly  
177 compensation rate paid prior to October 1, 1969, to the injured  
178 employee shall be increased as of October 1, 1969, by the amount that  
179 the maximum weekly compensation rate as determined under section  
180 31-309 to be effective for injuries sustained on or after October 1, 1969,  
181 is greater than the maximum weekly compensation rate as determined  
182 under section 31-309 to be effective for injuries sustained on or after

183 October 1, 1965, or the date of the injury, whichever is later, but not  
 184 more than fifteen dollars per week. Thereafter, increases, if any, for  
 185 cost-of-living as provided in subsection (a) of this section shall be  
 186 added to the amount of weekly compensation payable as of the date of  
 187 the injury or October 1, 1990, whichever is later. The partial cost-of-  
 188 living adjustments provided under this subsection shall be paid by the  
 189 employer without any order or award from the commissioner. The  
 190 adjustments shall apply to each payment made in the next twelve-  
 191 month period, on or after October 1, 1969. The cost of the adjustments  
 192 shall be paid by the employer or [his] the employer's insurance carrier  
 193 who shall be reimbursed therefor from the Second Injury Fund as  
 194 provided in section 31-354 upon presentation of any vouchers and  
 195 information that the Treasurer shall require. No claim for payment of  
 196 retroactive benefits may be made to the Second Injury Fund more than  
 197 two years after the date on which the employer or its insurance carrier  
 198 paid such benefits in accordance with this subparagraph in accordance  
 199 with this subsection.

200 (c) On and after October 1, 1997, the weekly compensation rate of  
 201 each employee entitled to receive compensation under section 31-307  
 202 as a result of an injury sustained on or after July 1, 1993, which totally  
 203 incapacitates the employee permanently, shall be adjusted as provided  
 204 in this subsection as of October 1, 1997, or the October first following  
 205 the injury date, whichever is later, and annually on each subsequent  
 206 October first, to provide the injured employee with a cost-of-living  
 207 adjustment in his or her weekly compensation rate as determined as of  
 208 the date of injury under section 31-309. If the maximum weekly  
 209 compensation rate, as determined under the provisions of said section  
 210 31-309, to be effective as of any October first following the date of the  
 211 injury, is greater than the maximum weekly compensation rate  
 212 prevailing as of the date of injury, the weekly compensation rate which  
 213 the injured employee was entitled to receive as of the date of injury  
 214 shall be increased by the percentage of the increase in the maximum  
 215 weekly compensation rate required by the provisions of said section  
 216 31-309 from the date of the injury to such October first. The cost-of-

217 living adjustments provided under this subdivision shall be paid by  
 218 the employer without any order or award from the commissioner. The  
 219 adjustments shall apply to each payment made in the next succeeding  
 220 twelve-month period commencing with October 1, 1997, or the  
 221 October first next succeeding the date of injury, whichever is later.  
 222 With respect to any employee receiving benefits on October 1, 1997,  
 223 with respect to any such injury occurring on or after July 1, 1993, and  
 224 before October 1, 1997, or with respect to any employee who was  
 225 adjudicated to be totally incapacitated permanently subsequent to the  
 226 date of his or her injury or is totally incapacitated permanently due to  
 227 the fact that the employee has been totally incapacitated by such an  
 228 injury for a period of five years or more, such benefit shall be  
 229 recalculated to October 1, 1997, to the date of such adjudication or to  
 230 the end of such five-year period, as the case may be, as if such benefits  
 231 had been subject to recalculation annually under the provisions of this  
 232 subsection. The difference between the amount of any benefits which  
 233 would have been paid to such employee if such benefits had been  
 234 subject to such recalculation and the actual amount of benefits paid  
 235 during the period between such injury and such recalculation shall be  
 236 paid to the dependent not later than December 1, 1997, or thirty days  
 237 after such adjudication or the end of such period, as the case may be, in  
 238 a lump-sum payment. The employer or [his] the employer's insurer  
 239 shall be reimbursed by the Second Injury Fund, as provided in section  
 240 31-354, for adjustments, including lump-sum payments, payable under  
 241 this subsection for compensable injuries occurring on or after July 1,  
 242 1993, and before October 1, 1997, upon presentation of any vouchers  
 243 and information that the Treasurer shall require. No claim for payment  
 244 of retroactive benefits may be made to the Second Injury Fund more  
 245 than two years after the date on which the employer or its insurance  
 246 carrier paid such benefits in accordance with this subsection.

247 Sec. 6. Section 31-307b of the general statutes is repealed and the  
 248 following is substituted in lieu thereof (*Effective July 1, 2006*):

249 If any employee who receives compensation under section 31-307



250 returns to work after recovery from his or her injury and subsequently  
251 suffers total or partial incapacity caused by a relapse from the recovery  
252 from, or a recurrence of, the injury, the employee shall be paid a  
253 weekly compensation equal to seventy-five per cent of his or her  
254 average weekly earnings as of the date of the original injury or at the  
255 time of his or her relapse or at the time of the recurrence of the injury,  
256 whichever is the greater sum, calculated pursuant to section 31-310, as  
257 amended by this act, after such earnings have been reduced by any  
258 deduction for federal or state taxes, or both, and for the federal  
259 Insurance Contributions Act made from such employee's total wages  
260 received during the period of calculation of the employee's average  
261 weekly wage pursuant to said section 31-310, as amended by this act,  
262 but not more than (1) the maximum compensation rate set pursuant to  
263 section 31-309 if the employee suffers total incapacity, or (2) one  
264 hundred per cent, raised to the next even dollar, of the average weekly  
265 earnings of production and related workers in manufacturing in the  
266 state, as determined in accordance with the provisions of section 31-  
267 309, if the employee suffers partial incapacity, for the year in which the  
268 employee suffered the relapse or recurrent injury and the minimum  
269 rate under this chapter for that year, and provided (A) the  
270 compensation shall not continue longer than the period of total or  
271 partial incapacity following the relapse or recurrent injury and (B) no  
272 employee eligible for compensation for specific injuries set forth in  
273 section 31-308 shall receive compensation under this section. The  
274 employee shall also be entitled to receive the cost-of-living adjustment  
275 provided in accordance with the provisions of section 31-307a, as  
276 amended by this act, commencing on October first following the  
277 relapse or recurrent injury which disables him or her. If the injury  
278 occurred originally prior to October 1, 1969, the difference between the  
279 employee's original weekly compensation rate and the rate required by  
280 this section and the cost-of-living adjustment, if any, thereafter due  
281 shall be paid initially by the employer or [his] the employer's insurance  
282 carrier who shall be reimbursed for such payment from the Second  
283 Injury Fund as provided by section 31-354 upon presentation of any

284 vouchers and information that the Treasurer shall require. No claim  
285 for payment of retroactive benefits may be made to the Second Injury  
286 Fund more than two years after the date on which the employer or its  
287 insurance carrier paid such benefits in accordance with this section. In  
288 no event shall the employee receive more than the prevailing  
289 maximum compensation.

290 Sec. 7. Subsection (a) of section 31-310 of the general statutes is  
291 repealed and the following is substituted in lieu thereof (*Effective July*  
292 *1, 2006*):

293 (a) For the purposes of this chapter, the average weekly wage shall  
294 be ascertained by dividing the total wages received by the injured  
295 employee from the employer in whose service [he] the employee is  
296 injured during the fifty-two calendar weeks immediately preceding the  
297 week during which [he] the employee was injured, by the number of  
298 calendar weeks during which, or any portion of which, the employee  
299 was actually employed by the employer, but, in making the  
300 computation, absence for seven consecutive calendar days, although  
301 not in the same calendar week, shall be considered as absence for a  
302 calendar week. When the employment commenced otherwise than at  
303 the beginning of a calendar week, that calendar week and wages  
304 earned during that week shall be excluded in making the computation.  
305 When the period of employment immediately preceding the injury is  
306 computed to be less than a net period of two calendar weeks, the  
307 employee's weekly wage shall be considered to be equivalent to the  
308 average weekly wage prevailing in the same or similar employment in  
309 the same locality at the date of the injury except that, when the  
310 employer has agreed to pay a certain hourly wage to the employee, the  
311 hourly wage so agreed upon shall be the hourly wage for the injured  
312 employee and [his] the employee's average weekly wage shall be  
313 computed by multiplying the hourly wage by the regular number of  
314 hours that is permitted each week in accordance with the agreement.  
315 For the purpose of determining the amount of compensation to be paid  
316 in the case of a minor under the age of eighteen who has sustained an

317 injury entitling [him] the employee to compensation for total or partial  
318 incapacity for a period of fifty-two or more weeks, or to specific  
319 indemnity for any injury under the provisions of section 31-308, the  
320 commissioner may add fifty per cent to [his] the employee's average  
321 weekly wage, except in the case of a minor under the age of sixteen,  
322 the commissioner may add one hundred per cent to [his] the minor's  
323 average weekly wage. When the injured employee is a trainee or  
324 apprentice receiving a subsistence allowance from the United States  
325 because of war service, the allowance shall be added to [his] the  
326 injured employee's actual earnings in determining the average weekly  
327 wage. Where the injured employee has worked for more than one  
328 employer as of the date of the injury and the average weekly wage  
329 received from the employer in whose employ [he] the injured  
330 employee was injured, as determined under the provisions of this  
331 section, are insufficient [for him] to obtain the maximum weekly  
332 compensation rate from the employer under section 31-309, prevailing  
333 as of the date of the injury, [his] the injured employee's average weekly  
334 wages shall be calculated upon the basis of wages earned from all such  
335 employers in the period of concurrent employment not in excess of  
336 fifty-two weeks prior to the date of the injury, but the employer in  
337 whose employ the injury occurred shall be liable for all medical and  
338 hospital costs and a portion of the compensation rate equal to seventy-  
339 five per cent of the average weekly wage paid by [him] the employer  
340 to the injured employee, after such earnings have been reduced by any  
341 deduction for federal or state taxes, or both, and for the federal  
342 Insurance Contribution Act made from such employee's total wages  
343 received from such employer during the period of calculation of such  
344 average weekly wage, but not less than an amount equal to the  
345 minimum compensation rate prevailing as of the date of the injury.  
346 The remaining portion of the applicable compensation rate shall be  
347 paid from the Second Injury Fund upon submission to the Treasurer  
348 by the employer or the employer's insurer of such vouchers and  
349 information as the Treasurer may require. For purposes of this  
350 subsection, the Second Injury Fund shall not be deemed an employer

351 or an insurer for any claim brought on behalf of an insolvent insurer  
 352 and shall be exempt from liability, unless such claim is brought not  
 353 later than thirty days after a determination of such insurer's  
 354 bankruptcy. No claim for payment of retroactive benefits may be made  
 355 to the Second Injury Fund more than two years from the date on which  
 356 the employer or its insurer paid such benefits in accordance with this  
 357 subsection. In cases which involve concurrent employment and in  
 358 which there is a claim against a third party, the injured employee or  
 359 the employer in whose employ the injury was sustained or the  
 360 employer's insurer shall advise the custodian of the Second Injury  
 361 Fund if there is a third party claim, and the employee, employer or  
 362 employer's insurer shall pursue its subrogation rights as provided for  
 363 in section 31-293 and shall include in its claim all compensation paid  
 364 by the Second Injury Fund and shall reimburse the Second Injury Fund  
 365 for all payments made for compensation in the event of a recovery  
 366 against the third party.

367 Sec. 8. Section 31-349g of the general statutes is repealed and the  
 368 following is substituted in lieu thereof (*Effective July 1, 2006*):

369 (a) [On or before January 1, 1996, the] For purposes of this section:

370 (1) "Insured employer" means an employer who insures its risks  
 371 incurred under chapter 568 with an insurance company authorized to  
 372 issue workers' compensation policies in this state by the Insurance  
 373 Department, and includes any member of a workers' compensation  
 374 pool administered by an interlocal risk management agency, and on  
 375 and after January 1, 2005, an employer mutual association organized  
 376 prior to June 6, 1996, with a membership composed exclusively of  
 377 health care providers and whose premium base is derived entirely  
 378 from health care organizations.

379 (2) "Self-insured employer" means an employer who is approved to  
 380 self-insure its liabilities under chapter 568 by the chairman of the  
 381 Workers' Compensation Commission. For the period commencing  
 382 October 1, 2004, and ending December 31, 2004, "self-insured

383 employer" includes an employer mutual association organized prior to  
384 June 6, 1996, with a membership composed exclusively of health care  
385 providers and whose premium base is derived entirely from health  
386 care organizations.

387 (3) "Paid losses" means the total gross indemnity, medical and any  
388 other expenses paid by or on behalf of an employer, including all legal  
389 expenses paid for the benefit of an injured worker in accordance with  
390 chapter 568. No credits shall be taken against paid losses, except  
391 voided checks in connection with expenses paid under chapter 568  
392 previously reported as a paid loss, recoveries from third party  
393 tortfeasors, reimbursement granted pursuant to section 31-299b and  
394 Second Injury Fund reimbursements.

395 (4) "Second Injury Fund Assessment Premium" means a direct,  
396 written premium prior to application of any deductible policy  
397 premium credits. No corporate accounting adjustments shall be  
398 included in the Second Injury Fund Assessment Premium reported to  
399 the Second Injury Fund.

400 (b) The State Treasurer, in consultation with the Insurance  
401 Commissioner, [shall] may adopt regulations, in accordance with the  
402 provisions of chapter 54, regarding the method of assessing and  
403 auditing all employers and insurers for the liabilities of the Second  
404 Injury Fund. The liabilities shall be allocated between self-insured  
405 employers and insured employers based on a percentage of paid losses  
406 for the preceding calendar year for each group. The method of  
407 [assessing] assessment for self-insured employers shall be based on  
408 paid losses. The method of assessment for insured employers, [shall be  
409 a surcharge based on premium.] for policies with effective dates before  
410 July 1, 2006, shall be based on the standard premium, and for policies  
411 with effective dates on or after July 1, 2006, shall be based on the  
412 Second Injury Fund Assessment Premium. In adopting regulations  
413 under this section, the State Treasurer shall consider their effect upon  
414 (1) the cost of doing business in this state, (2) the overall cost of the

415 workers' compensation system, (3) the effect of the regulations on  
416 insurers, insureds and self-insured employers, and (4) the financial  
417 condition and liabilities of the fund.

418       [(b)] (c) An employer mutual association organized prior to June 6,  
419 1996, with a membership composed exclusively of health care  
420 providers and whose premium base is derived entirely from health  
421 care organizations may make payments without penalty or interest  
422 over a five-year period for any outstanding assessment due from the  
423 association for the period commencing January 1, 1996, and ending  
424 December 31, 2004.

425       [(c) For purposes of this section:

426       (1) "Insured employer" includes any member of a workers'  
427 compensation pool administered by an interlocal risk management  
428 agency, and on and after January 1, 2005, an employer mutual  
429 association organized prior to June 6, 1996, with a membership  
430 composed exclusively of health care providers and whose premium  
431 base is derived entirely from health care organizations.

432       (2) For the period commencing October 1, 2004, and ending  
433 December 31, 2004, "self-insured employer" includes an employer  
434 mutual association organized prior to June 6, 1996, with a membership  
435 composed exclusively of health care providers and whose premium  
436 base is derived entirely from health care organizations.]

437       (d) (1) For insured employers, the Second Injury Fund Assessment  
438 Premium shall be reported to the fund in the quarter of the effective  
439 date of the policy, regardless of when the policy is billed by the  
440 insurance carrier or self-insurance group or paid by the policyholder  
441 or group self-insured member. All endorsements, retrospective  
442 adjustments and audits shall be reported in the quarter of issuance to  
443 the policyholder or member by the insurance carrier or group self-  
444 insured employer. Insurance carriers and group self-insured  
445 employers are responsible for correct billing, timely collection and

446 payments of the Second Injury Fund Assessment Premium to the  
447 Second Injury Fund.

448 (2) The custodian of the fund shall conduct an audit or periodic  
449 audits of any self-insured employer, group self-insured employer,  
450 insured employer or insurance company relative to any information or  
451 payment required by the custodian. The employer and insurer shall  
452 provide all necessary documents and information in relation to an  
453 audit by the custodian in a manner prescribed by the Treasurer. In the  
454 event of failure to provide such information, the Treasurer shall notify  
455 the Insurance Commissioner or chairman of the Workers'  
456 Compensation Commission, either of whom shall hold a hearing not  
457 later than sixty days after such notice to determine whether the  
458 employer is in compliance. Upon a finding of noncompliance, the  
459 commissioner or chairman shall order compliance and may impose  
460 finest, or suspend or revoke the insurer or employer's right to transact  
461 business in the state. The period of review of an audit shall be not  
462 more than three years, except that when the date of the previous audit  
463 is less than three years prior to such audit, the period of review shall  
464 be to the date of such prior audit. If the audit determines repeated  
465 errors or underreporting by an employer or insurer, the Fund reserves  
466 the right to audit an additional two-year review period. Upon the  
467 determination of the Treasurer or the Treasurer's agents, as a result of  
468 an audit, that an employer or insurer has not properly reported to the  
469 Second Injury Fund and, as a result, has underpaid its assessment, the  
470 employer or insurer, upon notice from the Treasurer or the Treasurer's  
471 agent, shall pay the full amount of the underpaid assessment, along  
472 with interest and any penalty due not later than thirty days after such  
473 notice.

474 Sec. 9. Section 31-353 of the general statutes is repealed and the  
475 following is substituted in lieu thereof (*Effective July 1, 2006*):

476 If the Treasurer and an injured employee, or his legal representative,  
477 reach an agreement in regard to compensation payable under [section

478 31-349] the provisions of chapter 568, such agreement shall be  
 479 submitted in writing to the commissioner for his approval and, upon  
 480 approval, shall remain in effect until otherwise ordered by the  
 481 commissioner. [He] The Treasurer may make payment by way of final  
 482 settlement in any matter concerning the fund, including matters under  
 483 section 31-355, as amended by this act, subject to the approval of the  
 484 commissioner, whenever it is for the best interests of the injured  
 485 employee.

486 Sec. 10. Subsection (a) of section 31-354a of the general statutes is  
 487 repealed and the following is substituted in lieu thereof (*Effective July*  
 488 *1, 2006*):

489 (a) There shall be a fund to be known as the Second Injury Fund.  
 490 Each employer, other than the state, shall, within thirty days after  
 491 notice given by the State Treasurer, pay to the State Treasurer for the  
 492 use of the state a sum in payment of his liability under this chapter  
 493 which shall be the [special assessment premium surcharge] Second  
 494 Injury Fund Assessment Premium, as defined in section 31-349g, as  
 495 amended by this act, and shall be assessed in accordance with  
 496 subsection (f) of section 31-349, sections 31-349g, as amended by this  
 497 act, 31-349h and 31-349i, this section, section 31-354b and sections 8  
 498 and 9 of public act 96-242\*. Such sum shall be an amount sufficient to  
 499 (1) pay the debt service on state revenue bond obligations authorized  
 500 to be issued under and for the purposes set forth in section 31-354b  
 501 including reserve and covenant coverage requirements, (2) provide for  
 502 costs and expenses of operating the Second Injury Fund, and (3) pay  
 503 Second Injury Fund stipulations on claims settled by the custodian or  
 504 other benefits payable out of the Second Injury Fund and not funded  
 505 through state revenue bond obligations and shall be determined in  
 506 accordance with the regulations adopted pursuant to the provisions of  
 507 section 31-349g, as amended by this act. The custodian shall establish a  
 508 factor for the annual [special] assessment [premium surcharge] that  
 509 caps such [surcharge] assessment for the fiscal years ending June 30,  
 510 1996, 1997 and 1998. In determining such factor the custodian shall



511 consider the funding mechanism authorized by subsection (f) of  
512 section 31-349, sections 31-349g, as amended by this act, 31-349h and  
513 31-349i, this section, section 31-354b and sections 8 and 9 of public act  
514 96-242\*, recognize that an acceptable level of employer assessment is  
515 important to the vitality of the economy of the state and nevertheless  
516 shall assure provision of services to injured workers that enhances  
517 their ability to return to work and improve their quality of life. In any  
518 event, such factor shall not exceed, with respect to insured employers,  
519 a rate of fifteen per cent on the [standard premiums] Second Injury  
520 Fund Assessment Premium with respect to workers' compensation and  
521 employers' liability policies and, with respect to self-insured  
522 employers, a comparable percentage limitation representing their pro  
523 rata share of any [special] assessment, [premium surcharge.] Any  
524 employer or insurance company who fails to pay in accordance with  
525 such regulations shall pay [interest] a penalty to the State Treasurer  
526 [on the sum at the rate] of fifteen per cent [per annum from the date  
527 the sum should have been paid until the date of payment] or a  
528 minimum of fifty dollars on the unpaid assessment. Interest at the rate  
529 of six per cent per annum shall be charged on any amounts owed on  
530 assessment audits. For self-insured employers interest shall accrue  
531 thirty days after notice from the Second Injury Fund of the unpaid  
532 audit assessment. For insurance companies, the interest shall accrue  
533 from the date of the notice of audit errors or deficiencies. The State  
534 Treasurer shall notify each employer of the penalty or interest  
535 provision with the notice of assessment. [Effective July 1, 1993,  
536 whenever the assessment is levied, the State Treasurer shall pay to the  
537 fund, on behalf of the state, a sum not to exceed the total amount of  
538 money expended by the fund on behalf of state employees during the  
539 period following the last assessment.] Any partial payments made to  
540 the fund shall be first applied to any unpaid penalty, then to any  
541 unpaid interest and the remainder, if any, to the unpaid assessment.  
542 Interest or penalties shall be applied if assessment reports or payments  
543 are received by the fund after the designated due date. The sums  
544 received shall be accounted for separately and apart from all other

545 state moneys and the faith and credit of the state of Connecticut is  
546 pledged for their safekeeping. The State Treasurer shall be the  
547 custodian of the fund and all disbursements from the fund shall be  
548 made by [him or his] the Treasurer or the Treasurer's deputies. The  
549 moneys of the fund shall be invested by [him] the Treasurer in  
550 accordance with applicable law and section 8 of public act 96-242\*.  
551 Interest, income and dividends from the investments shall be credited  
552 to the fund. Each employer, each private insurance carrier acting on  
553 behalf of any employer and each interlocal risk management agency  
554 acting on behalf of any employer shall annually, on or before April  
555 first, report to the State Treasurer, in the form prescribed by the State  
556 Treasurer, the amount of money expended by or on behalf of the  
557 employer in payments for the preceding calendar year. Each private  
558 insurance carrier and each interlocal risk management agency shall  
559 submit annually, on or before April first, to the State Treasurer, in the  
560 form prescribed by the State Treasurer, a report of the total [standard  
561 earned premium] Second Injury Fund Assessment Premium collected  
562 in the preceding calendar year and a report of the projected total  
563 [standard earned premium] Second Injury Fund Assessment Premium  
564 for the current calendar year. The fund shall be used to provide the  
565 benefits set forth in section 31-306, as amended by this act, for  
566 adjustments in the compensation rate and payment of certain death  
567 benefits, in section 31-307b, as amended by this act, for adjustments  
568 where there are relapses after a return to work, in section 31-307c for  
569 totally disabled persons injured prior to October 1, 1953, in section 31-  
570 349 for disabled or handicapped employees and in section 31-355, as  
571 amended by this act, for the payment of benefits due injured  
572 employees whose employers or insurance carriers have failed to pay  
573 the compensation, and medical expenses required by this chapter, or  
574 any other compensation payable from the fund as may be required by  
575 any provision contained in this chapter or any other statute and to  
576 reimburse employers or insurance carriers for payments made under  
577 subsection (b) of section 31-307a, as amended by this act. The  
578 assessment required by this section is a condition of doing business in

579 this state and failure to pay the assessment, when due, shall result in  
580 the denial of the privilege of doing business in this state or to self-  
581 insure under section 31-284. Any administrative or other costs or  
582 expenses incurred by the State Treasurer in connection with carrying  
583 out the provisions of this part, including the hiring of necessary  
584 employees, shall be paid from the fund. The State Treasurer may adopt  
585 regulations, in accordance with the provisions of chapter 54,  
586 prescribing the practices, policies and procedures to be followed in the  
587 administration of the Second Injury Fund.

588 Sec. 11. Section 31-355 of the general statutes is repealed and the  
589 following is substituted in lieu thereof (*Effective July 1, 2006*):

590 (a) The commissioner shall give notice to the Treasurer of all  
591 hearing of matters [which] that may involve payment from the Second  
592 Injury Fund, and may make an award directing the Treasurer to make  
593 payment from the fund.

594 (b) When an award of compensation has been made under the  
595 provisions of this chapter against an employer who [fails] failed or is  
596 unable to pay [medical and surgical aid or hospital and nursing service  
597 required under this chapter or any type of compensation for disability,  
598 or both, whether for total or partial disability of a permanent or  
599 temporary nature, death benefit, funeral expense,] such compensation  
600 or any adjustment in compensation required by this chapter, and  
601 whose insurer [fails or] failed and is unable to pay the compensation,  
602 such compensation shall be paid from the Second Injury Fund. The  
603 commissioner, on a finding of failure or inability to pay compensation,  
604 shall give notice to the Treasurer of the award, directing the Treasurer  
605 to make payment from the fund. Whenever liability to pay  
606 compensation is contested by the Treasurer, the Treasurer shall file  
607 with the commissioner, on or before the twenty-eighth day after [he]  
608 the Treasurer has received an order of payment from the  
609 commissioner, a notice in accordance with a form prescribed by the  
610 chairman of the Workers' Compensation Commission stating that the

611 right to compensation is contested, the name of the claimant, the name  
612 of the employer, the date of the alleged injury or death and the specific  
613 grounds on which the right to compensation is contested. A copy of  
614 the notice shall be sent to the employee. The commissioner shall hold a  
615 hearing on such contested liability at the request of the Treasurer or  
616 the employee in accordance with the provisions of this chapter. If the  
617 Treasurer fails to file the notice contesting liability within the time  
618 prescribed in this section, the Treasurer shall be conclusively  
619 presumed to have accepted the compensability of such alleged injury  
620 or death from the Second Injury Fund and shall have no right  
621 thereafter to contest the employee's right to receive compensation on  
622 any grounds or contest the extent of the employee's disability.

623 (c) The employer and the insurer, if any, shall be liable to the state  
624 for any payments made out of the fund in accordance with this section  
625 or which the [state] Treasurer has by award become obligated to make  
626 from the fund, together with cost of attorneys' fees as fixed by the  
627 court. If reimbursement is not made, or a plan for payment to the fund  
628 has not been agreed to by the Treasurer and employer, [within] not  
629 later than ninety days [of] after any payment from the fund, the  
630 Attorney General shall bring a civil action, in the superior court for the  
631 judicial district where the award was made, to recover all amounts  
632 paid by the fund pursuant to the award, plus double damages together  
633 with reasonable attorney's fees and costs as taxed by the court. Any  
634 amount paid to the Treasurer by the employer or insurer after the  
635 filing of an action, but prior to its completion, shall be subject to an  
636 interest charge of eighteen per cent per annum, calculated from the  
637 date of original payment from the fund.

638 (d) Any recovery made under this section, including any recovery  
639 for costs or attorney's fees, shall be paid into the fund. Any  
640 administrative or other costs or expenses incurred by the Attorney  
641 General in connection with carrying out the purposes of this section,  
642 including the hiring of necessary employees, shall be paid from the  
643 fund. The Treasurer shall adopt regulations, in accordance with the

644 provisions of chapter 54, which describe what constitutes a proper and  
645 sufficient "plan for payment to the fund" for the purposes of this  
646 section.

647 (e) Notwithstanding the provisions of subsections (a) to (d),  
648 inclusive, of this section, whenever the employer's insurer has been  
649 determined to be insolvent, as defined in section 38a-838, payments  
650 required under this section shall be the obligation of the Connecticut  
651 Insurance Guaranty Association pursuant to the provisions of sections  
652 38a-836 to 38a-853, inclusive.

653 (f) Notwithstanding subsection (b) of this section, the commissioner  
654 may approve a stipulated settlement for benefits between an injured  
655 worker and the Treasurer under this chapter prior to the issuance of a  
656 finding and award against the employer if the commissioner  
657 determines that it is in the best interest of the injured workers to do so.  
658 Notice of the proposed settlement shall be sent to the employer. The  
659 commissioner shall hold a hearing on such proposed settlement at the  
660 request of the employer in accordance with the provisions of this  
661 chapter. If the employer does not file with the Workers' Compensation  
662 Commission a written objection to the proposed settlement not later  
663 than twenty-eight days after the date of the notice to the employer of  
664 the proposed settlement, the employer shall be deemed to have  
665 consented to the proposed settlement and may not thereafter contest  
666 the terms of the settlement in any forum. Where payment has been  
667 ordered under this subsection, the terms of such order shall have the  
668 same status and be governed by the same provisions as an award  
669 issued pursuant to subsection (b) of this section.

670 (g) Nothing in this section shall preclude the Treasurer from  
671 entering into an agreement with the employer for the reimbursement  
672 of expenses, costs or benefits paid by the fund. The Treasurer, the  
673 uninsured employer, the injured worker, or the injured worker's  
674 beneficiaries, or a third party who is liable under section 31-293 may  
675 enter into a settlement agreement to finally or partially settle the rights

676 and liabilities of any or all parties under this chapter, subject to the  
677 approval of the commissioner.

678 (h) When a finding and award of compensation has been made  
679 against an uninsured employer who fails to pay it, that compensation  
680 shall be paid from the Second Injury Fund, and if there are further  
681 claims for any related, reasonable and necessary treatment, payment  
682 shall be provided to the claimant without a subsequent finding and  
683 award.

684 Sec. 12. Subdivision (4) of section 38a-844 of the general statutes is  
685 repealed and the following is substituted in lieu thereof (*Effective July*  
686 *1, 2006*):

687 (4) The association shall have the right to recover from the following  
688 persons the amount of any covered claim paid on behalf of such  
689 person pursuant to sections 38a-836 to 38a-853, inclusive: (A) Any  
690 person who is an affiliate of the insolvent insurer and whose liability  
691 obligations to other persons are satisfied in whole or in part by  
692 payments made under this chapter; and (B) any insured whose net  
693 worth on December thirty-first of the year next preceding the date the  
694 insurer becomes an insolvent insurer exceeds fifty million dollars and  
695 whose liability obligations to other persons are satisfied in whole or in  
696 part by payments made under said sections. For purposes of this  
697 subdivision, "insured" does not include a municipality, as defined in  
698 section 7-148, or the Second Injury Fund, established in section 31-354.

This act shall take effect as follows and shall amend the following sections:

|           |                     |              |
|-----------|---------------------|--------------|
| Section 1 | <i>July 1, 2006</i> | 31-299b      |
| Sec. 2    | <i>July 1, 2006</i> | 31-306(a)(2) |
| Sec. 3    | <i>July 1, 2006</i> | 31-306(c)    |
| Sec. 4    | <i>July 1, 2006</i> | 31-306(d)    |
| Sec. 5    | <i>July 1, 2006</i> | 31-307a      |
| Sec. 6    | <i>July 1, 2006</i> | 31-307b      |
| Sec. 7    | <i>July 1, 2006</i> | 31-310(a)    |

|         |                     |            |
|---------|---------------------|------------|
| Sec. 8  | <i>July 1, 2006</i> | 31-349g    |
| Sec. 9  | <i>July 1, 2006</i> | 31-353     |
| Sec. 10 | <i>July 1, 2006</i> | 31-354a(a) |
| Sec. 11 | <i>July 1, 2006</i> | 31-355     |
| Sec. 12 | <i>July 1, 2006</i> | 38a-844(4) |

***Statement of Purpose:***

To implement the recommendations of the Treasurer concerning the Second Injury Fund.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*